

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

NETLIST, INC.,

Plaintiff,

v.

MICRON TECHNOLOGY, INC., MICRON  
SEMICONDUCTOR PRODUCTS, INC., AND  
MICRON TECHNOLOGY TEXAS LLC,

Defendants.

Civil Action No. 2:22-CV-203-JRG-RSP

**JURY TRIAL DEMANDED**

**DEFENDANTS' OBJECTIONS TO DENIAL-IN-PART OF MOTION TO COMPEL**

Pursuant to Fed. R. Civ. P. 72(a) and Local Rule CV-72, and for the purposes of preserving the issues for appeal, Defendants submit the following objections to Magistrate Judge Payne's Denial in Part of Defendants' Motion to Compel (ECF 158) and Denial of Defendants' Motion for Reconsideration (ECF 255) (the "Orders").

For at least the reasons set forth in prior briefing (ECF 135 and 168) and oral argument, the Court erred in denying Defendants' motions with respect to compelling offers, proposals and draft agreements exchanged during the negotiation between Netlist and SK Hynix, Inc. The requested materials are relevant, at least to RAND issues and apportionment, and not burdensome for Netlist to produce. *See, e.g.*, ECF 135 at 1-2, 4-5 and ECF 168 at 1-3. Indeed, Netlist itself stressed the strong relevance of these materials in its *Samsung* litigation. ECF 168 at 2-3.

Dated: November 6, 2023

Respectfully submitted,

/s/ Michael R. Rueckheim  
Thomas M. Melsheimer

State Bar No. 13922550  
TMelsheimer@winston.com  
Natalie Arbaugh  
State Bar No. 24033378  
NArbaugh@winston.com  
Barry K. Shelton  
State Bar No. 24055029  
BShelton@winston.com  
WINSTON & STRAWN LLP  
2121 N. Pearl Street, Suite 900  
Dallas, TX 75201  
Telephone: (214) 453-6500  
Facsimile: (214) 453-6400

David P Enzminger  
denzminger@winston.com  
WINSTON & STRAWN LLP  
333 South Grand Avenue, 38th Floor  
Los Angeles, CA 90071-1543  
Telephone: (213) 615-1700  
Facsimile: (213) 615-1750

Michael R. Rueckheim  
State Bar No. 24081129  
MRueckheim@winston.com  
WINSTON & STRAWN LLP  
255 Shoreline Drive, Suite 520  
Redwood City, CA 94065  
Telephone: (650) 858-6500  
Facsimile: (650) 858-6559

Matthew Hopkins (pro hac vice)  
State Bar No. 1500598  
mhopkins@winston.com  
WINSTON & STRAWN LLP  
1901 L Street, N.W.  
Washington, D.C. 20036  
Telephone: (202) 282-5000  
Facsimile: (202) 282-5100

Juan C. Yaquian  
State Bar No. 24110559  
JYaquian@winston.com  
WINSTON & STRAWN LLP  
800 Capital Street, Suite 2400  
Houston, TX 77002

Telephone: (713) 651-2600  
Facsimile: (713) 651-2700

Wesley Hill (State Bar No. 24032294)  
wh@wsfirm.com  
Andrea Fair (State Bar No. 24078488)  
andrea@wsfirm.com  
Charles Everingham IV (State Bar No.  
00787447)  
ce@wsfirm.com  
WARD, SMITH & HILL, PLLC  
1507 Bill Owens Parkway  
Longview, TX 75604  
Telephone: (903) 757-6400  
Facsimile: (903) 757-2323

**ATTORNEYS FOR DEFENDANTS  
MICRON TECHNOLOGY, INC.,  
MICRON SEMICONDUCTOR  
PRODUCTS, INC., MICRON  
TECHNOLOGY TEXAS, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on November 6, 2023, the foregoing document was electronically filed with the Clerk of Court using the Court's CM/ECF system, which will send notification of such filing to all counsel of record, including counsel of record for Plaintiff Netlist Inc.

/s/ Michael R. Rueckheim  
Michael R. Rueckheim